

CHAPTER 5

FINDINGS AND CONCLUSIONS

Since 1999, approximately a hundred nonprofit legal aid providers have been using the Equal Access Fund to help the most vulnerable members of society when they face critical, life-changing legal issues that affect their basic needs, their safety, and their security—such as elder abuse, domestic violence, family support, housing, or access to needed health care. This report and its conclusions are based on the nationally recognized efforts of those organizations to document and evaluate their work. Their evaluations demonstrate the following points.

1. The Equal Access Fund improves the lives of vulnerable Californians.

Equal Access Fund projects provide help to low-income Californians and others who are the most vulnerable to injustice. Equal Access Fund–sponsored projects improve the lives of low-income and vulnerable Californians by resolving outstanding legal issues that threaten their health, safety, or well-being. The Equal Access Fund helped support 99 non-profit legal aid providers give legal assistance to over 50,000 clients a year. Legal aid advocates also provide legal education directly to over 100,000 low-income people a year, and indirectly to hundreds of thousands more through self-help materials and other tools. These services help victims of elder abuse and domestic violence, assist families facing loss of their housing or health care, ensure veterans receive the services they need, and support individuals in a successful transition from welfare to work.

Nonprofit legal aid providers address varied and complex legal and human needs. The Equal Access Fund-sponsored projects respond to a wide range of basic human needs in our society. The projects address these basic needs, with 27 percent of all projects providing assistance in housing cases, 25 percent in family law cases, and 11 percent in income maintenance cases. Projects also provide assistance

in a wide range of other case types. While all projects serve low-income Californians, over one-half of them make a special effort to reach out to and assist particularly underserved low-income people, including those with limited English skills, such as Latin Americans and East Asians (30 percent of projects), residents of isolated rural communities (7 percent), people with mentally or physically disabilities (17 percent), senior citizens (20 percent), and the homeless (5 percent).

Legal aid providers collaborate, form partnerships, and build relationships with one another to help clients solve their problems. Many legal problems raise additional legal and nonlegal issues. For example, assisting a client in obtaining a domestic violence restraining order can reveal child support, child custody, and income protection issues as well as additional needs for shelter and counseling. While sixty three percent of the projects focus on one or a few direct legal services, providers also address additional unmet needs by collaborating with other organizations and making referrals. Common collaborations are EAF projects that provide assistance with identifying legal issues and offering advice or limited assistance within a specified range of those issues; clients with needs outside the project's priorities are then referred to other organizations that provide such assistance (both legal and nonlegal). Over one-half (52 percent) provide advice or brief service, and 21 percent of projects make referrals to other organizations. Projects also lend legal expertise to community organizations such as nonprofit low-income housing developers. Another important type of network building involves the recruitment and use of volunteer attorneys. Over one-half of projects work with attorney volunteers to increase the amount of services available to their clients, enhance their own expertise through co-counseling arrangements, and foster greater understanding of the needs of low-income people in other sectors of the legal system.

Low-income Californians are better educated about their legal rights and responsibilities. Education efforts inform clients of their legal rights and responsibilities and in some cases allow clients to handle problems on their own. Approximately three-quarters of the projects engage in legal education efforts or the production of self-help materials. Talking to community groups and handing out brochures are the most common methods of providing legal education. In the six months from October 2003 through March 2004, legal aid providers reached over 50,000 people directly and distributed over 300,000 brochures. In addition, almost 40 percent of the projects provide some

form of assistance to self-represented litigants, including workshops, printed materials, Web-based legal education materials, and video presentations.

2. Thoughtful and innovative delivery systems have been implemented to stretch Equal Access Fund dollars and maximize services to clients.

Services are closely tailored to meet client needs. Equal Access Fund projects provide a range of services in order to make the best use of available resources while ensuring clients get the help they need. Seventy-two percent of cases are closed after providing counsel and advice on how the client can best handle the problem or brief service such as phone calls or letters to opposing parties. Five percent of cases are referred to other legal aid providers or community resources, and 10 percent of cases receive full representation resulting in settlement or court or administrative decision.³⁶

Pro bono services provided by volunteer attorneys are expanded. Fifty-six percent of the projects provide referrals to volunteer attorneys. Typically, volunteer attorneys are used to provide necessary services outside the stated scope of the project (and often outside the priorities of the legal aid provider that runs the project), or to provide additional assistance for cases that are within the scope of the project but are more complex or too numerous to be handled using in-house resources. Projects train and supervise these pro bono attorneys, effectively expanding the level and quantity of services they provide.

Effective use of technology leverages scarce resources. Technology developments over the last ten years have changed the face of the delivery of legal services. Many projects use Web and other technologies to increase the reach and the impact of direct services, as well as to facilitate communication and sharing of information between nonprofit legal aid organizations and their partners. These innovative projects include a statewide resources and referral web site that provides links to California legal aid agencies, courts services and certified lawyer referral services, as well as basic “know-your-rights” information; telephone hotline systems that extend program services to outlying areas; videoconference systems to facilitate statewide

³⁶ Based on “case closing” statistics reported by 94 projects from October 1, 2003, through April 30, 2004.

meetings, training and collaboration; and, special software tools that enable clients to prepare their own letters, affidavits and pleadings and to file for the federal and state earned income tax credit.

The network for providing legal help to low-income people is strengthened. Since meeting the unmet legal needs of California's low-income population would require three to four times the funding now available, it is essential that all resources for legal aid be used efficiently. The Equal Access Fund has been used successfully to expand resources by supporting projects that form networks to share scarce resources and that coordinate their services to avoid duplication of effort. Co-counseling and referral arrangements with volunteer attorneys greatly multiply the impact of a single Equal Access funded attorney staff member. Collaborations between the courts and legal aid providers create more effective core support of self-represented litigants. Well-connected networks of providers (legal, community and government) identify client issues and ensure that appropriate services are available to effectively resolve them.

3. The Equal Access Fund strengthens, expands, and is efficiently incorporated into the legal aid delivery system.

Skilled staff members provide direct service to clients. Overall, Equal Access Funds provide 43 percent of the revenue for the projects described in this report. The grant terms specify that this money must be used to provide direct service (rather than simply being folded into existing operating budgets) by either creating new services, expanding existing services, or replacing funds that have been lost in order to sustain a needed service. The result is that fully half the money goes to pay for attorney salaries, approximately 30 percent pays for paralegal salaries, and the remaining 20 percent pays for other staff that deliver services to target populations.

Scarce resources combine to further increase assistance to clients. Equal Access Fund money contributes 43 percent of the revenue needed to fund the projects described in this report. Other sources of revenue include grants from foundations, the federal Legal Services Corporation, state and local government, attorney fees, donations, and the state IOLTA program. While the percentage of other contributions varies widely from project to project, in all cases they serve to create a more diversified revenue stream, thereby helping ensure project

stability and continuity. The efforts of projects to meet the legal needs of clients beyond the assistance they can provide directly is reflected by the 51 percent of projects partnering with other legal aid providers, and the 56 percent of projects that work with volunteers, many of them volunteer attorneys. Finally, and in addition to the specialized partnership grants devoted to legal aid–court partnerships, 17 percent of the projects are working directly with courts to improve services and access for low-income people.

Grants are administered efficiently. The Equal Access Fund takes advantage of a well-established fund distribution system (set up by the State Bar of California’s Legal Services Trust Fund Program and overseen by the Judicial Council), thereby ensuring tested, efficient, and effective administration. This system provides streamlined decision-making and ensures that a range of nonprofit legal aid providers are funded (totaling 99 providers with 163 projects overall). Eighty-five percent of the money³⁷ is equitably distributed based on a formula that takes into account the number of low-income persons in the provider’s service area and the amount of service that provider was able to offer in the previous year (based on expenditures). The remaining 15 percent goes to legal aid support centers in equal shares. Grantees only use the money to serve eligible clients, and they are required to demonstrate that they provide a high quality of service (using well-established quality control procedures and mandatory reporting of planned budgets, expenditures, and results achieved).

Evaluation improves services to clients. The inception of the Equal Access Fund and this report to the Legislature coincide with a national trend among nonprofit legal aid providers toward self-evaluation to assess and improve efficiency and effectiveness. The Legal Services Trust Fund Program and Judicial Council staff have encouraged this development in California by retaining a nationally recognized consultant to help the grantees to begin or expand self-evaluation efforts.³⁸ The consultant also worked closely with the staff of the Trust Fund Program, Judicial Council, and the Legal Aid Association of California to develop an “evaluation toolkit” containing instruments and instructions for providers to use in assessing their Equal Access Fund projects.

³⁷ Not counting the 10 percent that goes to partnership projects.

³⁸ Self-evaluation, or “program-owned” evaluation as it has come to be known in the legal aid community, was chosen because it offers providers the greatest flexibility in tailoring the evaluation to their specific needs and circumstances, while still allowing it to be conducted economically.

Currently, approximately 60 providers are engaging in systematic evaluation—most for the first time—and 26 were able to complete interim analyses for this report. Those efforts looked at the outcomes of case services, the satisfaction levels of clients, the effectiveness of outreach efforts, and the usefulness of advocate and community trainings. If evaluation indicated the need for project improvement, legal aid providers responded with needed improvements. As a direct result of program evaluation, legal aid providers implemented such program improvements as, increased training for staff and volunteers, better systems for communication among referring organizations, and an in-person presence rather than phone availability for certain hard-to-reach populations.

Clients consistently report high levels of satisfaction with the assistance they get from nonprofit legal aid providers. Many of the legal aid providers conducting evaluation measured client satisfaction. They found consistently high levels of satisfaction on a variety of measures, including the utility of services provided in languages other than English, the positive impact of the service on the client's case, and the helpfulness of staff providing the services. There is value to society when disenfranchised individuals and populations receive needed services. Research indicates that a litigant who understands judicial procedures and has a sense of fair treatment may have increased trust and confidence in the judicial system, even without “winning” a case.

4. The Equal Access Fund creates strong partnerships between the courts and nonprofit legal aid providers that benefit low-income litigants, the judicial system, and the public at large.

Low-income unrepresented litigants obtain increased access to courts. In 2003, Equal Access Fund-supported legal aid–court partnerships closed cases on over 17,000 low-income Californians needing self-help legal assistance.³⁹ Of these, the majority, 13,300 cases, involved family law issues, with housing assistance accounting for another 1,885. Fourteen projects reported helping some 22,000 people via one-on-one assistance. Another 3,000 people were served using self-help workshops or clinics. During the year, 11,000 forms and self-help packets were distributed. Less direct assistance was provided to pro per litigants through the distribution of 40,000 self-help brochures, and community legal education presentations were given to approximately 11,000 people. Finally, almost 8,000 people

³⁹ Year-end reports filed by 12 of 19 partnership grant projects.

were referred to nonprofit legal aid providers, and volunteer and private bar attorneys. The self-help centers are located at the superior court, and the courts donate the space and often supplies and assistance. Direct access to court personnel offers an opportunity to discuss how to improve services to customers. Non-partnership grant projects have participated in the growing movement to assist self-represented litigants. Overall, 42 projects provided such services.

Self-help services have saved resources. According to judicial officers interviewed, the partnership projects have noticeably increased the efficiency of the court and improved public trust and confidence in the justice system. The staff of the partnership projects likewise reported that judicial officers and court staff said they were very pleased with the work done by the centers, which they said saved the court valuable time and resources by helping self-represented litigants have better prepared pleadings, more organized evidence, and more effective presentation of their cases. Further evidence of support is provided by reports from many project staff that they have helped the courts address general concerns caused by large numbers of unrepresented litigants, such as better coordination of calendars and identifying the need for more bilingual staff.

Court services are streamlined through coordination among those working with the court system. The state judicial system, legal aid providers, law libraries, local volunteer attorneys, and other groups are working together to improve access to justice for all Californians regardless of income or language ability. These coordinated efforts help identify gaps in service and avoid duplication of effort, which is crucial given the lack of adequate resources.

5. Despite the gains, significantly more funding is necessary to serve California's unrepresented litigants.

Legal aid providers cannot meet the demand for help. Overall funding for legal aid in California has only been sufficient to handle around 25 percent of the estimated need of low-income people.⁴⁰ Even though progress has been made over the past five years, the state and federal government now shoulder a smaller share of the burden than at any time in the past 30 years. The result is that, based

⁴⁰ Compare "And Justice for All: Fulfilling the Promise of Access to Civil Justice in California" (1996), pp. xvii and 22 with "Path to Equal Justice: A Five-Year Status Report on Access to Justice in California" (2002), pp. 3 and 30.

on 2000 figures, the 6.4 million Californians living in poverty have only one legal aid attorney for every 10,000 low-income people—thereby leaving many pressing legal needs unaddressed. This has serious negative consequences to the provision of justice for all low-income people in California.

Funding has not kept up with the escalating poverty rate in California. Since 1989 California has consistently had a higher poverty rate than the national average, and California alone accounts for the net national increase of 800,000 children in poverty since the late 1980's. Inadequate funding and increasing numbers of eligible clients hamper the efforts of legal aid providers to serve the most critical legal needs confronting low-income people, and limit the ability of providers to help make the judicial system work more fairly and efficiently.

Existing court-based self-help centers meet only a small portion of the unmet need. The creation of the legal aid–court partnership grants marked an innovative and new direction in the delivery of legal help to low-income people. Despite the large numbers of people served, the unmet legal need remains great. The 25 self-help centers created, expanded, or improved by the Equal Access Fund cover only a small fraction of the court locations throughout California. In addition, the centers are not able to match the hours the courthouses they are located in are open. Based on hours reported, self-help centers generally operate between 10 and 30 hours per week, with most offering less than 20 hours of service for two or three days during the week. While in some cases legal clinics and workshops can help increase the numbers of people helped during the hours that centers can be open, they generally provide only subject-limited services (such as help with domestic violence protection orders). Many other problems are not addressed, or require additional assistance, like guardianships or more complex divorce matters. Add this to what customers most frequently cite as needing improvement—eliminating long lines and creating more waiting room—and the need for additional support is clear.

Recommendations

If the Equal Access Fund is to truly fulfill its purpose, it must be increased to build on the statewide legal aid network that serves low-income people. Comparing the service made possible by the Equal Access Fund to the demonstrated total need shows that many low-income persons in California do not have access to a legal aid provider or to services in areas of major concern, such as family law, housing, and income maintenance. In addition, grantees are able only on a very limited basis to provide services other than brief advice and counsel or in languages other than English.

Additional funding is needed to expand court based self-help centers. Funding is needed to create centers in the courts that do not now have them, to provide adequate resources to allow the centers to stay open during all court hours, and to offer services for the full range of legal needs of self-represented litigants.

Ongoing evaluation will continue to improve the delivery of legal assistance to low-income and marginalized Californians. Well-developed evaluations use small amounts of money to obtain large insights that lead to better use of resources and improved services to clients. The Judicial Council and the State Bar's Legal Services Trust Fund Program must continue to provide their oversight and technical assistance to ensure that evaluation continues, that evaluation results inform program decision making, that the evaluation capacity is increased, and that efficient practices are shared with all legal aid providers.

